

LAW OFFICES OF THOMAS M. SWIHART

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Attorney for Defendant

REAL PROPERTY AND IMPROVEMENTS
LOCATED AT 4589 CROOKED PRAIRIE ROAD,
HUMBOLDT COUNTY, CALIFORNIA,
ASSESSOR'S PARCEL NUMBER 221-181-028

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

REAL PROPERTY AND IMPROVEMENTS

LOCATED AT 4589 CROOKED PRAIRIE

ROAD, HUMBOLDT COUNTY,

CALIFORNIA, ASSESSOR'S PARCEL

NUMBER 221-181-028,

Defendant

Case No.: 08-2696 WHA

**DEFENDANT'S CASE MANAGEMENT
STATEMENT**

Date: September 10, 2008

Time:

Courtroom

Honorable William H. Alsup

Complaint Filed: May 29, 2008

Trial Date: None

1. Jurisdiction and Service: The Court has jurisdiction pursuant to 28 U.S.C. §§ 1345 and 1355, and 21 U.S.C. § 881. All parties have been served.

1 2. Facts: Plaintiff seeks forfeiture of real property based on its allegations that the
2 said real property was used or intended for use to facilitate the commission of marijuana
3 cultivation. Defendant denies this and asserts, *inter alia*, that any activities occurring on the said
4 property, were subject to regulation solely by the State of California, and are thereby
5 Constitutionally protected.

6 3. Legal Issues: Can the United States government assume jurisdiction over state
7 controlled legislation in violation of the Tenth Amendment to the U.S. Constitution. Defendant
8 is currently evaluating other legal issues and defenses which it may assert.

9 4. Motions: None presently anticipated.

10 5. Amendment of Pleadings: None presently anticipated.

11 6. Evidence Preservation: Not presently applicable.

12 7. Disclosures: Plaintiff and Defendant are exempt from the disclosure requirements
13 of Fed. R. Civ. P. 26.

14 8. Discovery: Neither party has commenced discovery..

15 9. Class Action: Not applicable.

16 10. Related Cases: None.

17 11. Relief: Defendant will seek award of costs and attorney fees at the culmination of
18 this suit.

19 12. Settlement and ADR: Defendant would consent to submission of this matter for
20 ADR.

21 13. Consent to Magistrate Judge For All Purposes: Both Plaintiff and Defendant have
22 declined assignment to a Magistrate Judge.

23 14. Other References: None presently contemplated.

24 15. Narrowing of Issues: None presently contemplated.

25 16. Expedited Schedule: This matter is amenable to use of expedited procedures.

26 17. Scheduling: As directed by the Court.

27 18. Trial: Defendant will request a trial by Jury. The Parties anticipate a three (3)
28 day trial.

PROOF OF SERVICE

United States v. 4589 Crooked Lane, etc.
Case No. 08-2696 WHA

I, THOMAS M. SWIHART, declare:

I am over the age of eighteen years and not a party to the cause of action. My business address is 2039 Shattuck Avenue, Suite 308, Berkeley, CA 94704. On September 2, 2008, I served the documents described as: **DEFENDANT'S CASE MANAGEMENT STATEMENT** on the interested parties in this matter by placing a true copy thereof in a sealed envelope(s) addressed as follows:

David B. Countryman, AUSA
Office of the US Attorney
450 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Service of the above document(s) was effectuated by the following means of service:

- ☒ **By First Class Mail** -- I am readily familiar with this office's practice for collection and processing of correspondence for mailing with the United States Postal Service. It is deposited with the United States Postal Service in the ordinary course of business on the same day it is processed for mailing. I caused such envelope(s) to be deposited in the mail at Berkeley, California. The envelope was mailed with postage thereon fully prepaid.
- ☐ **By Personal Service** -- By causing to personally deliver a true copy thereof in a sealed envelope.
- ☐ **By Overnight Delivery Service** -- I caused such envelope(s) to be deposited in a box or other facility regularly maintained by the express service carrier or delivered to an authorized courier or driver authorized by the express service carrier to receive documents. The envelope was deposited with the express service carrier with delivery fees paid or provided for.
- ☐ **Facsimile Transmission** -- I served the documents in this matter via facsimile transmission to: **(415) 436-6748**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and executed this 2nd day of September, 2008, at Berkeley, California.

THOMAS M. SWIHART